IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Mahesh Kumar Purohit Vs. State of Rajasthan

S.B.CR. MISC. PETITION NO.1401/2007

DATE OF ORDER :: November 28, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Mukul Singhvi, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.

BY THE COURT:

Notice of final disposal is accepted by the learned Public Prosecutor. With the consent of the learned counsel for the parties, the petition is heard and decided at the admission stage.

By the instant criminal misc. petition under section 482 Cr.PC., the petitioner has challenged the order dt 01.8.2007 passed by the Judicial Magistrate, Chittorgarh (for short `the trial court' hereinafter) in Cr. Case No.152/2007, whereby the trial court dismissed the application filed by the petitioner under section 457 Cr.P.C. seeking interim custody of the wood

recovered by the police. Earlier also, the petitioner filed an application before the trial court which came to be dismissed vide order dt. 3.7.2007 against which, the petitioner filed a criminal misc. petition under section 482 Cr.P.C. being S.B.Cr.Misc. Petition No.1002/2007, which came to be decided by this Court vide order dt. 17.7.2007 permitting the petitioner to move a fresh application along with documents showing his ownership of the wood. The petitioner submitted the documents showing the ownership of the wood stating therein that the wood in question was transported under a valid transit permit issued by the Forest Department and the wood was being transported under the valid transit permit in a truck bearing No.RJ21-G-2850 and according to the learned counsel, it was seized by the police despite the fact that the petitioner was in possession of the transit permit. He has placed on record the transit permit dt. 29.6.2007 issued by the forest officer for transporting the wood in question and one Nathu Singh was the driver of the truck and, therefore, in the transit permit, name of Nathu Singh has been mentioned, the person transporting the wood in question.

The trial court vide order impugned, dismissed the application on the ground that the proof of ownership of the wood is not sufficient. In my view, when there is none else except the petitioner to claim the wood in question and the

petitioner has placed on record the supply order, the supply of the woods in pursuance thereof and transporting the wood under the valid transit permit issued by the forest authority, prima facie it is sufficient material to show the ownership of the petitioner for the wood. In this view, of the matter, the order impugned cannot be sustained and is liable to be set aside.

Consequently, the petition is allowed. Order impugned dt. 1.8.2007 is set aside and the trial court is directed to release the wood in favour of the petitioner, which is the subject-matter of the aforementioned criminal case on "Supurdaginama" provided he furnishes a personal bond in the sum of Rs.1,00,000/- along with one solvent security in the like amount to the satisfaction of the trial court on the usual conditions, which the trial court deems fit.

[H.R.PANWAR],J.

m.asif/-